U.S. DEPARTMENT OF COMMERCE
National Technical Information Service

PB-258 272

Suggested Solid Waste Management Ordinance for Local Government

National Association of Counties Research Foundation, Wash, D.C.

Prepared for

Public Health Service, Washington, D C

Mar 74

275183

PB 258 272

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March 1974

REPRODUCED BY
NATIONAL TECHNICAL
INFORMATION SERVICE
U.S. DEPARTMENT OF COMMERCE
SPRINGFIELD, VA. 22161

BIBLIOGRAPHIC DATA SHEET	1. Report No. EPA-SW-73D	2.	3. Recipient's Accession No. PB-258 272
4. Title and Subtitle Suggested Solid Waste Management Ordinance for Local Government			5. Report Date Mar 74 6.
7. Author(s)			8. Performing Organization Rept. No.
9. Performing Organization Name and Address National Association of Counties Research Foundation, Washington, D.C.			10. Project/Task/Work Unit No. 11. Contract/Grant No. PH-86-27-290
12. Sponsoring Organization Name and Address Sponsored in part by Public Health Service, Washington, D.C. and Environmental Protection Agency, Washington, D.C. Office of Solid Waste Management Programs			13. Type of Report & Period Covered 14.

15. Supplementary Notes

16. Abstracts

This suggested ordinance for local government usage was compiled from many sources and consists of the best sections, in the opinion of the writer, of over 100 ordinances reviewed. It should be applicable to any local political subdivisions and could be used, with modifications, in a multijurisdictional area. Applicable sections would be revised, renumbered and/or otherwise modified to conform to local practices.

17. Key Words and Document Analysis. 17a. Descriptors

*Solid waste disposal,
*Local government,
*Ordnances,
Recommendations,
Policies,
Management methods,
Law enforcement,
Classifications,
Licences,
Organizations,
Prohibited activities.
Personnel,
Collecting methods,
Storage,
Containers,
Wastes,
Animals,
Fees,
Insurance,
Constraints,
Penalties.

17b. Identifiers/Open-Ended Terms

17c. COSATI Field Group 13B

18. Availability Statement National Technical Information Service Springfield, Va.	19. Security Class (This Report) UNCLASSIFIED	21. No. of Pages 30p.
	20. Security Class (This Page) UNCLASSIFIED	22. Price 4.00/300

FORM NTIS-35 (REV. 10-73) ENDORSED BY ANSI AND UNESCO. THIS FORM MAY BE REPRODUCED USCOMM-DC 8265-P74

SUGGESTED SOLID WASTE MANAGEMENT ORDINANCE
FOR LOCAL GOVERNMENT

This document (SW-73d) was completed under grant S802768-01-1
for the Office of Solid Waste Management Programs
by the NATIONAL ASSOCIATION OF COUNTIES RESEARCH FOUNDATION

U. S. ENVIRONMENTAL PROTECTION AGENCY
1974

This report has been reviewed by the U.S. Environmental Protection Agency. Its publication does not signify that the contents necessarily reflect the views and policies of the U.S. Environmental Protection Agency, nor does mention of commercial products constitute endorsement or recommendation for use by the U.S. Government.

An environmental protection publication (SW-73d) in the solid waste management series.

Foreword

This suggested ordinance for local government usage was compiled from many sources and consists of the best sections, in the opinion of the writer, of over 100 ordinances reviewed. It should be enacted only after careful consideration of local conditions and existing state and local constitutional and statuatory requirements.

This ordinance is applicable to any local political subdivisions and could be used, with modifications, in a multijurisdictional area.

The ordinance has been prepared for guidance under the authorities of Sec 209 (b) (1) of the Solid Waste Disposal Act, as amended. Many sections will not be applicable to particular situations. These, of course, should be deleted. Applicable sections should be revised, renumbered and/or otherwise modified to conform to local practices.

The assembly of this document was initiated under contract PH-86-27-290, between the National Association of Counties Research Foundation and The Public Health Service of Department of Health, Education and Welfare, and completed under grant S802768-01-1, between National Association of Counties Research Foundation and the Office of Solid Waste Management Programs of the U. S. Environmental Protection Agency.

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Suggested Solid Waste Management Ordinance for Local Government

An Ordinance authorizing and directing the planning, establishment, maintenance and operation of a comprehensive solid waste management system; the establishment and enforcement of necessary and proper regulations for the management of solid waste; the establishment and collection of residential solid waste management service charges; and for other purposes.

COMMENT: *The preamble is a means of indicating legislative intent, or the problems which led to the enactment of the law. It is not a part of the law itself.*

1. Short Title

This ordinance shall be known any may be cited as the Solid Waste Management Ordinance of (_____).

COMMENT: *This ordinance would be applicable to any political subdivision of the State and could be used, with modification, in a multi-jurisdictional agency where appropriate legislative authority has been given.*

2. Declaration of Policy

It is hereby declared to be the purpose of this ordinance to regulate the storage, collection, transport, processing, recovery, and disposal of solid waste in order to protect the public safety, health, and welfare and to enhance the environment of the people of (_____).

COMMENT: *This is the official expression of the intent of the legislative body enacting the ordinance. A court interpreting the ordinance, in whole or in part, would be obligated to arrive at the intent of the legislature, in this case, the protection of public safety, health, and welfare, and environment.*

3. Definitions

For the purposes of this ordinance, the following words and phrases shall have the meaning given herein unless their use in the text of the ordinance clearly demonstrates a different meaning.

Abandoned Vehicle – A vehicle that applicable State laws deem to have been abandoned.

Administrative Department – The Department of this municipality charged with the administrative management of this ordinance.

Agricultural Solid Waste – The solid waste that results from the rearing and slaughtering of animals and the processing of animal products and orchard and field crops.

Bulky Waste – Items whose large size precludes or complicates their handling by normal collection, processing, or disposal methods.

Collection – The act of removing solid waste from the central storage point at the source of generation.

Commercial Solid Waste – Solid waste generated by stores, offices, and other activities that do not actually turn out a product.

Commissioner – The duly qualified and appointed person in charge of the Agency which is responsible for the enforcement of those aspects of this ordinance related to the protection of the public safety, health, welfare, and environment.

Dead Animals – Animals that have died from any cause except those slaughtered for human consumption.

Director – The duly qualified and appointed person in charge of the department which is responsible for the administrative management of this ordinance.

Disposal – The orderly process of discarding useless or unwanted material.

Dump – A land site where solid waste is disposed of in a manner that does not protect the environment.

Enforcement Agency – The Agency of this municipality charged with the enforcement of those aspects of this ordinance related to the protection of the public safety, health, welfare and environment.

Generation – The act or process of producing solid waste.

Hazardous Waste – Those wastes such as toxic, radioactive or pathogenic substances which require special handling to avoid illness or injury to persons or damage to property.

Incineration – The controlled process by which solid, liquid, or gaseous combustible waste are burned and changed into gases, and the residue produced contains little or no combustible material.

Industrial Solid Waste – Solid waste that results from industrial processes and manufacturing.

Institutional Solid Waste – Solid waste originating from educational, health care, and research facilities.

Local Government – A public corporation, created by Government for political purposes, and having subordinate and local powers of legislation: e.g., a county, town, city, etc., or combination thereof.

Natural Resources – Materials which have useful physical or chemical properties which exist, unused, in nature.

Non-Residential Solid Waste – Solid waste from agricultural, commercial, industrial, or institutional activities or a building or group of buildings consisting of five or more dwelling units.

Incinerator – An engineered apparatus used to burn waste substances and in which all the factors of combustion – temperature, retention time, turbulence, and combustion air – can be controlled.

Person – Any individual, partnership, co-partnership, firm, company, public or private corporation, association, joint stock company, trust, estate or any other legal representative, agent or assigns.

Pollution – The condition caused by the presence in the environment of substances of such character and in such quantities that the quality of the environment is impaired or rendered offensive to life.

Processing – Any method, system, or other treatment designed to change the physical form or chemical content of solid waste.

Recovered Resources – Materials which still have useful physical or chemical properties after serving a specific purpose and can, therefore, be reused or recycled for the same or other purposes.

Recovery – The process of obtaining material or energy resources from solid waste. Synonyms: extraction, reclamation, salvage.

Energy Recovery – The obtaining of energy available from the heat generated when solid waste is incinerated.

Recycling – The process by which recovered resources are transformed into new products in such a manner that the original products lose their identity.

Rendering – A process of recovering fatty substances from animal parts by heat treatment, extraction, and distillation.

Residential Solid Waste – All solid waste that normally originates in a residential environment. This definition is applicable to the solid waste from a building of four or less separate units.

Reprocessing – The action of changing the condition of a secondary material.

Reuse – the reintroduction of a commodity into an economic stream without any change in its physical characteristics.

Salvage – The utilization of waste materials.

Salvaging – The controlled removal of waste materials for utilization.

Sanitary Landfill – A site where solid waste is disposed using sanitary landfilling techniques.

Sanitary Landfilling – An engineered method of disposing of solid waste on land in a manner that protects the environment by spreading the waste in thin layers, compacting it to the smallest practical volume, and covering it with soil by the end of each working day.

Scavenging – The uncontrolled removal of materials at any point in solid waste management.

Scrap – Discarded or rejected material or parts of material that result from manufacturing operations and are suitable for reprocessing or recycling.

Home Scrap – Scrap that never leaves the manufacturing operation and is routinely reprocessed. (Also referred to as revert scrap, millbroke, or turn-around scrap).

(Prompt) Industrial Scrap – Scrap that is generated during the manufacture of a product.

Secondary Material – A material that is utilized in place of a primary or raw material in manufacturing a product.

Separation – The systematic division of solid waste into designated components.

Solid Waste – Useless, unwanted, or discarded material with insufficient liquid content to be free flowing.

Solid Waste Management – The purposeful, systematic control of the generation, storage, collection, transport, separation, processing, recovery and disposal of solid waste.

Storage – The interim containment of solid waste, in an approved manner, after generation and prior to ultimate disposal.

Transport – The movement of solid waste subsequent to collection.

Transfer Station – A site at which solid waste is concentrated after collection and before processing or disposal.

COMMENT: *Definitions are important to clarify the meaning of terms which are not self-explanatory. A definition section is an integral part of a solid waste management ordinance. This section is important to the*

administration and interpretation of the ordinance. Unduly restrictive or vague definitions should be avoided. Another purpose of a section of definitions is to assist anyone interpreting the ordinance or section, in arriving at legislative intent. In the absence of definitions, the ordinary meaning of the language under scrutiny would be used. State legislation will control collection, storage and disposal of abandoned vehicles including their definition, and must be the source of local authority for action. Some States have recently enacted enabling legislation for municipal action in this field.

4. Administrative Department

The Department of (_____) shall be responsible for the administrative management of this ordinance and the rules and regulations authorized in Section 6.03.

COMMENT: *Solid Waste Management is normally the responsibility of the Department of Public Works, or a similar agency, which may be headed by an executive called the Director. Depending upon the local government organization or the services to be rendered, the responsibility for solid waste management may be assigned to an organizational unit within the Department of Public Works, or may be a separate function of local government.*

There are advantages and disadvantages to having a separate organizational unit. The advantages include a separate budget, more visibility to the public and elected officials, total attention devoted to the problem, no sharing of equipment and personnel, direct responsibility to the elected officials, and a higher priority status. The disadvantages include further fragmentation of local government, lack of coordination with related programs and duplication of certain types of personnel(e.g. budget, research, accounting).

5. Enforcement Agency

The (_____) Agency shall be responsible for the enforcement of those aspects related to the protection of the public safety, health, welfare, and environment of this ordinance and the rules and regulations authorized in Section 8.01.

COMMENT: *This is a responsibility that may be assigned to the agency in charge of health related activity, usually the Department or Board of Health, under the direction of a Commissioner. The trend at the State level and in large population areas is to create a separate agency charged with the responsibility of environmental protection. The development and enforcement of rules and regulations pertaining to safety, health, welfare and the environment would be a function of that agency.*

Administrative management and enforcement responsibility may be combined in one agency where permitted by law.

6. Powers and Duties of the Administrative Department

6.01 Solid Waste Management Plan. The Director, in co-operation with the Commissioner or the Enforcement Agency, and with the advice of the Solid Waste Advisory Board, shall survey the solid waste management practices within the locality and prepare a Solid Waste Management Plan to be compatible with the State plan, showing therein all present management activities and recommended management activities for future use, taking into consideration population growth, solid waste generation, land development regulations and overall system management including organizational, financing, and regulatory capabilities. The plan shall consider the qualitative and quantitative increases in the solid waste expected to be generated within the area governed from residential, commercial, industrial, and agricultural sources, and shall be submitted to the State for review and approval. The plan developed should not only consider area wide approaches, but must be designed to be operational and when implemented must be an environmentally acceptable and economically efficient solid waste management system.

COMMENT: *The primary sources of authority for local government activity are the State Constitution and enabling legislation, which sets out the areas where local activity can take place. A further restraint is in State laws setting standards which must be met by all inferior units of government. Before any legislative action is*

taken, these areas must be studied carefully to assure that it is authorized. Otherwise, the legislation enacted will be null and void, which will cause problems, including legal action against the local government.

The use of the word "shall" in legislation usually imposes a mandatory duty upon the official involved. Here, the Director of the Administrative Department has the duty to prepare a plan for solid waste management. In cases where a discretionary duty is given by legislation "may" is used. No time limit is set here for implementation because each governing body will have unique problems which must be solved and it will be the best judge of any time restraints, subject to those set forth by the State on the preparation and implementation of the Solid Waste Management Plan, which must not conflict with that of any higher authority.

Although the Director is responsible for the Solid Waste Management Plan, its development and implementation must be co-ordinated with all governmental units with a responsibility or interest in solid waste management. The plan for solid waste management must serve five functions: (1) provide a technical and policy guideline for effective solid waste management; (2) provide a public-directed framework of standards for solid waste management planning and implementation; (3) provide for an integrated management system covering all elements from generation through disposal either through direct operations or regulated performance; (4) establish methods and procedures for translating the plan into system design and direct operations; (5) serve as a legislative support document for furthering the improved management of solid waste within the jurisdiction.

6.02 Solid Waste Management System. The Director shall provide for a solid waste management system consistent with the Solid Waste Management Plan, consisting of storage, collection, transport, processing, separation, recovery, and disposal through public ownership, or through exclusive agreements with one or more persons for a part or all of such solid waste system, or he may, through the permits in Sections 6.04 and 7.01 authorize any person to manage the solid waste which he generates pursuant to the terms of this ordinance.

COMMENT: *In arriving at the decision to use public or private resources, or any combination of the two, local government must consider such factors as capital investment, personnel resources, service to be rendered, operating and maintenance costs, and the revenue required to support the solid waste management system.*

In any event, control must always be retained by local government which can be accomplished by the use of permits, the establishment of fees, rules and regulations and the use of inspection powers.

For example, the local government could process or dispose of solid waste while the collection could be provided by private enterprise.

This suggested ordinance is designed to permit the local government to select either a public or private solid waste management system or combination thereof and still operate within its provisions.

6.03 Rules and Regulations. The Director may adopt, revise, revoke and enforce rules and regulations governing the administration of this ordinance.

COMMENT: *The authority given here is limited to those rules and regulations applicable to administration and does not include the rules and regulations governing safety, health, welfare and environment which are the responsibility of the Enforcement Agency. These rules and regulations must be compatible with state law and applicable rules and regulations of the state.*

6.04 Permits. The Director is hereby authorized to issue permits for all elements of solid waste management including alteration of existing facilities or systems. All such permits shall be non-transferable, shall be for a term of one year and shall be subject to the fees set forth in Section 20. All permits so issued shall be conditioned upon observance of the laws of this State, the ordinances of this governing body and the rules and regulations authorized herein.

COMMENT: *Permits are needed even in a publicly operated solid waste management system. By their use, regulation is achieved from identification of waste at the point of generation through disposal. This ordinance provides that all persons, other than those storing their own residential solid waste must possess a valid permit for each step through disposal, with issuing authority being vested in the Director of the Administrative Department.*

Permits have a long history of use in the regulation of business or professions. When used in a solid waste management system they identify all persons involved in solid waste management, the type of waste being managed and to control its movement through disposal by approved methods.

The permits authorized in an ordinance are supplemental to permits required by either State or local law. A

permit to operate an incinerator would not excuse the holder from receiving clearance from the State Air Quality Act, as well as the Water Quality Act where quench waters are involved. Local building permits and building codes would be prerequisites to the issuance of the permits authorized here.

The permits are expressly conditioned upon observance of all applicable laws and the rules and regulations authorized herein. Therefore, failure to observe either would be a valid ground for suspension or revocation. Such action may be a drastic step, and should be used only when alternative solid waste management systems or methods are available. For example, if there is only one sanitary landfill, revocation of that permit might create more problems than it solves.

The Director of the Administrative Department is authorized to prepare application forms which must include all information required by Section 7, with an omnibus clause to use for any special information required by the local government.

Since fraud vitiates a legal document, a false statement (see Section 25.07) in the application would be grounds for revocation. In such case, good judgement would dictate weighing the falsity and, if of a minor nature, taking no action.

Since the permit is not transferable, the purchaser of an activity controlled by a permit would be required to apply for and receive the authorization prior to continuing the regulated activity.

There are fields of activity in solid waste management where the number of permits should be limited in order to insure efficient and economical operation. In those areas, the Director would have the right to refuse to entertain new applications. An illustration of this is in collection, where the area served will generate sufficient revenues to attract a limited number of qualified applicants. In other words, if a large number of permit holders are in a limited area, there will be a duplication of routes resulting in short cuts in service, which are not compatible with proper solid waste management.

The governing body should establish the time period the permit should be in force. Many localities are on a one-year time frame corresponding to the budget period while others have various periods up to five years. In a smaller locality where little paperwork is involved in renewing permits, one year might be a good time period. For a large locality with many permits in force the work load may be too great for annual renewal; therefore a longer interval might be preferred. A permit term of one year is set forth here and would give an added control tool to the Director, who could refuse to renew the permit where a long history of minor substandard performance is involved.

Application and permit fees are the rule rather than the exception. An application fee would have to accompany each application and would aid in meeting administrative costs; therefore it should not be returned. It will also determine the sincerity of the applicant. Application for the renewal of an existing permit need not require a fee.

Initial or renewal permit fees should be realistic. A fee which exceeds the cost of issuance and supervision should be avoided, as well as one of a nominal amount. The desirable figure would be one which would make the permit system self-supporting.

The Director should evaluate the information given in each application. In doing this they can inspect physical facilities to assure compliance with the applicable standards and, at the same time, weigh intangibles, such as personnel qualifications, operational plan, financial responsibility, etc.

Once the inspection is completed the Director has open three courses of action. He can issue the permit; he can deny the permit, in writing, stating the reasons therein or; he can inform the applicant of the changes needed to allow the permit to issue.

Any substantial alteration, modification or enlargement must be by permit, a matter which can be covered by the omnibus clause in each section setting forth application form contents. The same clause can be used for other needs peculiar to the user municipality, such as performance bonds.

In any denial of application, the action of the Director must not be arbitrary.

The rules and regulations for the administration of the ordinance should set out administrative procedures for the processing of applications, including the time period between receipt of the application and the action authorized in Section 7. The Director should have an interval which will allow a careful review, keeping in mind that there will be other applications and duties which must receive attention. To allow inaction to replace a positive approval or disapproval within a time frame should be avoided. When an application is rejected, the applicant has the right to utilize the appeals procedures set forth in Section 21.

6.05 Bulky Waste Collection. The Director shall establish the necessary procedures to collect and dispose of bulky waste from residential units within this locality.

COMMENT: *Bulky Waste is defined in Section 3 and would include any solid waste which could not be picked up during routine collection. If a packer truck is used, the size of the opening would be the limit on bulky waste. The usual bulky waste would include "white goods," that is stoves, refrigerators or washers, or such items as furniture or hot water tanks. Interior storage prior to pick-up is needed to avoid unsightly accumulations at residences. The size of the locality will determine schedule. A small locality could make one collection per month, with larger localities needing a more sophisticated approach. The owner of such waste items in a small locality would not be prohibited from taking bulky items to an approved processing or disposal facility. Under the powers in Section 6.02 this could be either a public operation or it could be done by contract.*

6.06 Dead Animals. The Director shall provide the necessary equipment and personnel to remove dead animals within this locality and shall schedule such collections to provide pick-up with a minimum delay. This Section shall not apply to dead animals, or parts thereof, from any commercial or agricultural activity within this locality.

COMMENT: *This Section is designed to provide the sanitary collection and disposal of dead animals within the locality and to prevent the use of normal solid waste collection service for dead animal disposition. Such service would include animals killed in traffic. Disposal would be through existing facilities, such as an incinerator or a sanitary landfill.*

6.07 Contracts. All contracts entered into by the Director under this ordinance shall meet the following minimum requirements:

a. Be with the consent of the Legislative Body of this locality.
b. Prior approval of the chief legal officer of this locality.
c. Be for a term of not less than _____years, nor more than _____years.
d. Meet the insurance requirements of this ordinance.
e. Be awarded to the lowest and best bidder.
f. Show full details of ownership of the successful bidder, including the names and addresses of all principals, or officers and majority stockholders, if a corporation.
g. Such other conditions as may be set forth in instructions to bidders or other necessary qualifications, as required by the contemplated work.

COMMENT: *All contracts entered into by the Director of the Administrative Department shall be with the consent of the local governing body. It should be approved by the chief legal officer, who will have been active in its drafting. A contract for a one-year period will be too short to attract bidders where large financial commitments for facilities and equipment are involved. Present economic conditions do not encourage a long term contract unless it contains provisions for adjustment to meet increased costs brought about by inflation. In drafting such clauses it should be kept in mind that changes in techniques may result in lower costs; therefore, a change in the contract prices should include this factor, which can also be invoked in a deflationary period.*

Insurance bonds are required by Section 18 and are limited to performance and payment bonds and liability insurance. The payment bond would include premium liability and equipment liability. In those States where private insurance companies handle workmen's compensation, that requirement would be included in the ordinance.

Price alone is not a good criterion for the award of a contract since high standards may be expensive. Another factor to be considered is that the lowest bidder may be forced to reduce services in order to make a profit.

6.08 Solid Waste Management Districts. The Director is hereby authorized to create one or more solid waste management districts within the boundaries of this locality in order to provide efficient and economical solid waste management.

COMMENT: *This section and the following sections will enable the Director to obtain efficient and economical solid waste management by the creation of districts and the regulation of private contractors to serve each district so created.*

Regulation, through permits, of the optimum number of private persons will eliminate inefficiency, such as duplication of routes.

6.09 Private Contractor Regulation. The Director shall determine the number of contractors needed to efficiently serve the locality or all districts created under Section 6.08 and shall issue permits to the contractor or contractors who are found to be qualified until the needs of the locality are met. Nothing in this ordinance shall prevent one contractor from serving the locality or all districts created under Section 6.08.

COMMENT: *This will give the Director the needed authority to exercise control over private contractors who are managing solid waste within the locality. The goal to be achieved is efficient and economical service to all generators of solid waste and it may be achieved through the use of one or more contractors. This section would also allow the use of one or more contractors for collection and one or more contractors for disposal, or both collection and disposal could be combined under one contract. If the system used involves other activity, such as processing or resource recovery, that could be included in each district authorized by this section.*

6.10 Service Charges, Non-Residential Solid Waste. The Director shall not set or regulate any service charges for non-residential waste management by private contractors.

COMMENT: *This section is directed to contractors serving non-residential solid waste sources, who are left free to negotiate for the fees charged their customers. This section would not be used in any area where a local government monopolizes solid waste management. This suggested ordinance is designed for use in a locality where non-residential solid waste may be managed by private industry under the control of local government; therefore, all non-residential waste is classified as commercial. A building or group of buildings consisting of five or more dwelling units is classified as a commercial enterprise and will not be served as a part of the residential solid waste management system. If solid waste management is regulated as a utility, this section would not apply.*

6.11 Exclusive Service. All generators of solid waste, other than those operating under permits as authorized in Section 7.01, shall use the services of the local government or contractor for the district in which the solid waste is generated.

COMMENT: *The restriction on the number of contractors servici g a district, coupled with the requirement that all generators, residential or otherwise, use the services of the local government or contractor will allow economical and efficient service.*

Section 7.01 would exempt non-residential waste generators from this requirement as they would provide for their own total solid waste management. In such cases, the applicant would have to meet all the provisions regulating the activity of permit holders and would have to pay such fees as are set for that activity. Renewals, as in all other permits, would be required also.

7. Permits for the Management of Solid Waste

7.01 Permit for the Storage, Transport, Processing, and Disposal of Solid Waste by the Generator thereof. The Director shall prepare application forms for all such permits, requiring the following information:

a. The name and address of the applicant, showing its legal identity (corporation, partnership, association, etc.);
b. The business address of the applicant;
c. The types of waste to be covered by the permit;
d. The methods of storage, transport, processing and disposal;
e. Proof of all insurance required by this ordinance (State financial responsibility limits for motor vehicles, etc);
f. The route or routes to be used in transporting and schedules used;
g. The location and type of processing and/or disposal contemplated;
h. Information as required to indicate compliance with the Occupational Safety and Health, and Environmental Protection Laws of the federal and/or state governments.

COMMENT: *Consideration of safety and the environment are of prime importance. A permittee should be required to indicate what kind of safety measures would be taken in his operations, and how he intends to*

comply with the law. Consideration should be given to the preparation of an Environmental Impact Statement by the agency; the permittee would be required to respond with measures toward mitigating any impacts.

7.02 Storage Permit. The Director is hereby authorized to prepare application forms for permits for the storage, on premises, of all solid waste generated and retained thereon for more than twenty-four continuous hours. Provided, however, this section shall not apply to a resident of a building of four or less separate dwelling units. Such application shall require:

a. The name and address of the applicant, showing its legal identity (individual, partnership, corporation, etc.); and the business address of the applicant;
b. The classification, anticipated volume and weight of all solid waste to be stored;
c. The location, description and owner of all storage containers and ancillary equipment;
d. Frequency of collection, processing or disposal, showing all permit numbers thereof;
e. All other information reasonably required by the Director to fulfill the intent of this ordinance.

COMMENT: *Effective solid waste management begins at the point of generation. Since the act of producing solid waste cannot be totally controlled, the first element of management to be placed under a permit is storage.*

The 24-hour time limit is arbitrary and may be varied to suit the solid waste management plan of the local government. Such a time limit serves to stimulate the movement of solid waste between the point of storage and further management.

The applicability of this section of 5 or more residences generally is the division between residential and commercial activities. Efficient storage at such facilities would result in the use of bulk containers which must be controlled.

The exemption of normal household waste from a building of four or less dwelling units can be used to prevent the accumulation of waste such as inoperative vehicles and bulky waste on such premises.

As part of the solid waste management plan, the Director will classify the waste by its component parts. The sophistication of classification will depend upon the activity conducted within the locality. Estimated volume and weight are necessary for comprehensive management of all solid waste from the locality.

The requirement of the location of storage containers will allow pre-permit inspection. If exterior locations are involved, sanitation and aesthetics must be evaluated. If interior locations are involved, fire hazards must also be considered. In describing the containers the applicant need only specify the number and type, such as bulk container or plastic bags. Auxiliary equipment, such as compactors, shredders and balers should be listed by manufacturer, model number and the operational plan for each.

The requirements of subsection (d) will enable the Director to evaluate adequacy of present collection practices and to cross-check other activity requiring a permit.

The omnibus provisions of (e) can be utilized to obtain compliance with the health, safety and environmental requirements of the local governing body.

7.03 Permit for Solid Waste Collection. The Director shall prepare application forms for all such permits, requiring the following information:

a. Name and address of the applicant, showing its legal identity (individual, partnership, corporation, etc.);
b. The business address of the applicant;
c. The identity of the non-residential customers using the collection service and all storage permit numbers of same; If residential collection, the area served, hours of collection and type of collection service to be provided;
d. The routes used for the movement of solid waste between collection and further management;
e. An inventory of all motorized equipment to be used in such collection, including all permits required by law;
f. Proof of all insurance required by this ordinance. (State Financial responsibility limits for motor vehicles, etc.);
g. All other information reasonably required by the Director to fulfill the intent of this ordinance.

COMMENT: *This is another step in the permit process of identifying and regulating solid waste management. It would apply where private industry is engaged in collection of solid waste, ranging from a contract operation for an entire city or county downward to a collector who may serve a particular type of industry.*

The type of waste being collected is important since it will enable intelligent regulation by the enforcing arm of the local government. Waste, such as brick, stone and mortar, would need little control, whereas waste from a health care facility or food service establishment would require close regulation to minimize health problems. The

identity of the user of the collection system would allow a crosscheck for observances of other requirements of the law.

Supplying the Director with the names of customers will allow an evaluation of the scope of the contract and will allow a crosscheck of storage permits. It would be impractical to list all residential users of a collection service but the area served should be described so that maximum efficiency and economy can be obtained through the authority to limit the number of contractors in a given area. Existing contracts would not be affected but could be controlled by permit issuances as contracts expire.

Any contractor will have a plan of operation, including routes, which will enable the Director to see that collection will not interfere with core area traffic and to prevent heavy traffic on residential streets. The type of service would range from curbside bags to taking the filled container to the collection vehicle and returning the empty container to its proper location.

Once a collection vehicle has been filled, the Director should know the route or routes to be used in further management, such as delivery to a transfer station, an incinerator, a recovery station or a disposal site, thereby providing another tool in planning solid waste management, such as alternative routes to provide efficient traffic flow and the location needs for transfer stations.

The equipment inventory will enable the Director to evaluate the ability of the applicant to fulfill his commitments as outlined to this point. Authority under this ordinance does not excuse compliance with state or other licensing laws or permits, such as a public utilities commission.

Insurance requirements are twofold in nature; protection of property and person and protection of the local government. The former is achieved through liability policies, including those on motor vehicles and the latter through performance bonds.

The last subsection could be used to require the applicant to file copies of existing contracts so that overlapping contracts can be eliminated.

7.04 Permit to Locate and Operate a Transfer Station. The Director is hereby authorized to prepare application forms for permits to locate and operate transfer stations in this locality when applicable, requiring the following information.

a. The name and business address of the applicant;

b. A full legal description of each site, including the name and address of each owner of record. If not owned by the applicant, documentary proof of the right to use each site, with appropriate site plans;

c. Clear evidence of approval by all other regulatory agencies;

d. Operational plan including classification, anticipated volume and weights of solid waste, hours of operation, and resource recovery activity or potential;

e. Applicable permit numbers of persons using each facility;

f. Inventory of all fixed equipment;

g. The method or methods of transporting the solid waste from the transfer station for further management, the destination, route, and identity of the carriers involved;

h. Certificates of all insurance required by this ordinance;

i. All other information reasonably required by the Director to fulfill the intent of this ordinance.

COMMENT: *Generally, two factors determine the use of transfer stations. Volume and distance to the next step of management make it inefficient and uneconomical to use collection vehicles. There may be circumstances peculiar to a locality where a factor or factors other than distance make a transfer station desirable. The need for transfer stations is a matter which will be resolved in the planning stage authorized in Section 6.01.*

The legal description will locate the site. Ownership need not be in the applicant, who may have leased the premise or who may have an option to buy or lease the property. The details of the site plans would depend upon the requirements of other regulatory bodies, which would include approval by a zoning board. As mentioned earlier, the user of this ordinance should look to State statutes for his authority to act. Permit numbers of users can be used by the authorities as a cross-check for full compliance with the ordinance. Fixed equipment, such as a compactor or scales, would be used to evaluate the performance of the unit. Movement from the transfer station may be by truck, barge or railhaul and must have the capacity to assure prompt movement from the transfer station.

If the user wishes to include alteration modification of a transfer station such requirements could be under the omnibus section.

Sanitation, including periodic removal of all solid waste for cleaning the facility, would be set out in the rules and regulations of the enforcement agency.

7.05 Permit to Transport Solid Waste. The Director is hereby authorized to prepare application forms to transport solid waste, originating in this locality, by any method not covered by any other provision of this ordinance, requiring the following information:

a. The name and business address of the applicant (individual, partnership, corporation).

b. The methods of transport, unit volume, schedule of movement routes used and the identity of the persons in the next management step.

c. All other information reasonably required by the Director to fulfill the intent of this ordinance.

COMMENT: *The primary thrust of this section is devoted to the movement of solid waste other than by the collection vehicle. This would include movement from the transfer station, residue for incinerators or nonrecoverable residue from resource recovery activities. When a contract operation is involved a local government may regulate transportation beyond its borders. In a railhaul situation the contract could require the right of way to be kept free of solid waste spillage.*

7.06 Permit to Locate and Operate an Incinerator. The Director is hereby authorized to prepare application forms for permits to locate and operate incinerators or to operate existing incinerators in this locality, requiring the following information:

a. The name and address of the applicant, showing its legal identity (individual, partnership, corporation, etc.);

b. The business address of the applicant;

c. A full legal description of each site, including the name and address of each owner of record. If not owned by the applicant, documentary proof of the right to use the site, with the appropriate site plans;

d. Clear evidence of approval by all other regulatory agencies;

e. Operational plan, including classification, anticipated volume and weight of solid waste to be incinerated, hours of operation, anticipated volume and weight of residue, and resource recovery activity;

f. The method of transporting the residue from the incinerator, the destination and identity of the carriers involved;

g. Certificates of all insurance required by this ordinance;

h. All other information reasonably required by the Director to fulfill the intent of this ordinance.

COMMENT: *Under the definitions in Section 3, this section regulates all solid waste incineration within the locality, including backyard burners and on site activity by businesses, therefore each user must have the prior approval of air pollution control authority before the permit will be issued. The two positive steps authorized are in resource recovery activity and residue disposal.*

The user of this suggested ordinance may wish to include design and performance standards for the incineration process and the handling of waste, including the residue, in all facilities constructed after its effective date. This could also be required in increasing the quality of performance of existing facilities.

7.07 Permit to Locate and Operate a Sanitary Landfill. The Director is hereby authorized to prepare application forms for permits to locate and operate a sanitary landfill in this locality, requiring the following information:

a. The name and address of the applicant, showing its legal identity (individual, partnership, corporation, etc.);

b. The business address of the applicant.

c. A full legal description of each site, including the name and address of each owner of record.If not owned by the applicant, documentary proof of the right to the site, with the site plans which conform to the requirements of this ordinance.

d. Clear evidence of approval by all other regulatory agencies.

e. The engineering design report, prepared by an engineer licensed to practice that profession in this State, including but not limited to the following:

1. Hydrology and climatology
2. Soils and geology
3. Site improvements
4. Volume requirements
5. Control of leaching and gas movement

6. Surface and groundwater protection
7. Completed use
8. Location of residences and structures
9. Access streets, roads and highways

f. Operational plan which shall include, but not be limited to:
1. Hours of operation
2. Classification of waste
3. Anticipated volume and weight of waste
4. Hazardous waste handling
5. Equipment to be utilized
6. Landfilling methods
7. Availability of cover material
8. Anticipated life of the site

g. All other information reasonably required by the Director to fulfill the intent of this ordinance.

COMMENT: *In designing the permit form, the user will have to act within the constraints of applicable State law and the rules and regulations authorized therein. Thorough planning and the application of sound engineering principles to all stages of site selection, design, operation and completed use will result in a successful and efficient sanitary landfill. In order to meet this objective, it is essential that the rules and regulations be comprehensive so that the director can evaluate the applicant's design and operation plans.*

7.08 Permit to Locate and Operate a Resource Recovery Facility. The Director is hereby authorized to prepare application forms for permits to locate and operate facilities to recover material or energy resources from solid waste within the locality, requiring the following information:

a. The name and business of the applicant;

b. Clear evidence of approval by all other regulatory agencies;

c. A full legal description of each site, including the owner of record or, if non-owned, documentary proof of the right to each site, with appropriate site plans;

d. An operational plan, including the classification, volume and weight of solid waste to be delivered, the materials to be recovered, anticipated volume and weight of nonrecoverable residue and hours of operation;

e. The method of transporting the residue from the recovery facility, the destination and identity of the carriers involved;

f. Certificates of all insurance required by this ordinance;

g. All other information reasonably required by the Director to fulfill the intent of this ordinance.

COMMENT: *The need to preserve natural resources has been apparent for some time and has resulted in the passage of the Resource Recovery Act of 1970 (P.L. 91-512). This section is another step in identifying solid waste management and is intended to regulate an activity primarily engaged in resource recovery from solid waste. It would not apply to a paperstock dealer, can manufacturer, or similar activities buying recovered resources to be recycled or reused. Nor would it apply to a retail outlet operated by a charity, since the stock there is donated.*

Two points must be kept in mind by the user of this suggested ordinance. The permits which are authorized in Section 7.01 to 7.08 will not excuse requirements of other regulatory bodies within the locality or higher level within the State. All permit provisions here would apply to both public and private activity, therefore those users who want a public activity excluded must do so.

7.09 Permits to Issue. If the application for any permit required herein shows that the applicant will perform the services or operate the facility, or both, for which the permit is sought, in conformity with the laws of this State, locality and the provisions of this ordinance, including all rules and regulations authorized herein, the permit or permits shall issue. If, in the opinion of the Director of the Administrative Department, modifications can be made which will bring the application within the intent and purpose of this ordinance, he shall notify the applicant or applicants, in writing, setting forth the corrections to be made and the time in which such corrections shall be completed.

COMMENT: *In all instances where all legal requirements are met, the Director is obligated to issue the permits for which application is made. If there are corrections which would bring about full compliance then this should*

be brought to the attention of the applicant and a specific time limit set for compliance. The desirable course to follow here would be one which would encourage applicants to upgrade their application to meet the standards set out in the ordinance. The time limit should be realistic. No provision has been made for an extension of the original time perioa because this could lead to procrastination. No permit should be issued until full compliance has been assured.

7.10 Permits, Denial. If the applicant fails to make the corrections pursuant to the notice given under Section 7.10 within the time limit specified therein, or, if the application does not clearly show that the applicant will render services or operate the facility without health hazard or adverse effects on the environment, the application shall be denied and the applicant notified, in writing, stating therein the reasons for the denial. Nothing in this section shall prevent any applicant from reapplying after the rejection of his application, provided the requirements of this ordinance are met.

COMMENT: *The intent of the ordinance includes the identity of all solid waste sources and assurance that total management will enhance the environment and protect the health, safety and welfare of the inhabitants, therefore an application which does not assure full compliance with those requirements must be denied, even though it may eliminate a business. Few businesses will refuse to meet any reasonable requirement and will be in a position to find other successful applicants for temporary waste management.*

7.11 Permit Number, Display. All motor vehicles operating under any permit required by this ordinance shall display the permit number or numbers on each side, in colors which contrast with that of the vehicle, such numbers to be clearly legible and not less than 12 inches high.

COMMENT: *This section will enable the enforcement agency to check on all motor vehicles used in solid waste management as a means of enforcing permit requirements and to prevent the unauthorized use of permit numbers.*

8. Powers and Duties of the Enforcement Agency

8.01 Rules and Regulations. The enforcement agency shall adopt, revise, revoke and enforce rules and regulations governing the health, safety, welfare and environmental aspects of solid waste management within this locality. These rules and regulations must be compatible with state law and applicable state rules and regulations.

COMMENT: *The success of effective solid waste management will depend upon the rules and regulations authorized here. The intent is to allow flexibility in drafting rules by the enforcement agency rather than having legislative action for this purpose. It is anticipated that some users of this suggested ordinance will also be areas where waste will be managed, but not generated, therefore a broad authority is given and includes storage, collection, transport, transfer, processing, recovery, and disposal.*

8.02 Inspections. In order to insure compliance with the laws of this State, the ordinances of this locality and the rules and regulations authorized herein, the Enforcement Agency is authorized to inspect at reasonable times, all phases of solid waste management within this locality.

COMMENT: *As shown in Section 7, permits are issued conditioned upon observance of State and local law, this ordinance and rules and regulations authorized by Sections 6.03 and 8.01. Inspection is the best way to insure compliance with all the above. Conscientious inspection would allow early detection of violations and their correction.*

Amendment IV, United States Constitution provides: "The right of the people to be secure in their persons, houses, papers and effects against unreasonable search and seizures, shall not be violated, but no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or thing to be seized." All State Constitutions have the same provision in some form. In the event of a refusal of entry, a search warrant will be the source of entry.

8.03 Notices. In all instances where such inspections reveal violations of this ordinance, the rules and regulations governing solid waste management, or the laws of this State, the Enforcement Agency shall issue written notice for each

such violation, stating therein the violation or violations found, the date and time of such violation and the corrective measures to be taken, together with the time in which such corrections shall be made. All such notices shall be kept in a clearly marked file and shall be available for public inspection during regular business hours.

COMMENT: *This section is limited to violations found as the result of inspections and will not apply to any littering violations; the latter would fall into the class of law which is generally enforced by the uniformed police.*

8.04 Citations. In all notices involving permit holders where the corrective measures have not been taken within the time specified, the Enforcement Agency shall cite the violator to appear before the Director of the Administrative Department provided, however, in those cases where an extension of time will permit correction and where there is no public health hazard created by the delay, one extension of time, not to exceed the original period, may be given.

In all instances other than Section 12.01 where the inspections authorized in Section 8.02 reveal violations of the laws of this State, the ordinances of this locality, the rules and regulations in Section 8.01 or when the Enforcement Agency is aware of any such violation, the violator shall be cited to appear in the _____ Court at a day and time shown in the citation.

COMMENT: *This provides a dual enforcement tool. The rules and regulations authorized to the Administrative Department governing permit holders are primarily to ensure economical and efficient solid waste management. Such violations can be handled through appearances before the Director of the Administrative Department. Other provisions established by State law, ordinance, or rules and regulations are designed to protect the safety, health, welfare, and the environment should carry a heavier penalty for violations. A violator of a rule involving a permit holder would be penalized by a suspension of a permit, or by a revocation. A person operating a disposal facility contrary to the ordinance would be cited to a formal court, where the sentence could be both penal and pecuniary. In the case of a defective reusable container (Section 12.01) the only penalty is the loss of the unacceptable container.*

The surrounding circumstances will include the nature of the violation, its duration and whether it was intentional or inadvertant. All these must be considered by the Commissioner in deciding what action to take.

Due process requires that the permittee receives a detailed list of the alleged violations. After receiving the list, the permittee may decide whether to appeal, correct the violations, or do nothing.

The notice, by including the corrections necessary to avoid permit revocation gives the permittee the opportunity to correct the violations. Ten days is a suggested time, and is reasonable for the alleged violator to decide if he wants to appeal, and if he so decides, to do so.

With the notice, the permittee knows exactly what the alleged violations are and what must be done to correct them. The permittee can then make an intelligent decision as to whether he feels the citation is correct, and thus the permittee will make the corrections; or whether he feels the citation is incorrect, and he will appeal the decision by first requesting a hearing.

Reasonable time will depend on the nature, extent and number of violations. The time must be sufficient to allow the permittee to decide whether to correct the violations or to appeal. If the violations are extensive, the Enforcement Agency may extend the deadline for correcting the violations if the permittee has commenced the corrections, continues to process satisfactorily, and the Enforcement Agency is satisfied that the permittee is acting in good faith, and no health hazard is present, and will complete the corrections as soon as possible.

If the time limit elapses, and the permittee has not filed a request for a hearing or corrected the violations (or at least begun corrections and received an extension from the Director) then the permit is automatically revoked. Since the permittee did not request a hearing within provided, he has waived his rights. Thus the revocation is final, and the only possible recourse left to the permittee is the courts.

After the revocation of the permit, the ex-permittee is liable for the penalties. The revocation and penalty provisions of this ordinance are not mutually exclusive. The Director has the option of invoking either or both provisions.

8.04.1 Hearings. The Enforcement Agency shall appear, through its authorized personnel, and present its evidence, through the Chief Legal Officer, of the violations charged. The permit holder cited may appear in person or through his attorney and may cross-examine the Enforcement Agency witnesses prior to presenting evidence on his behalf.

COMMENT: *This is a simplified procedural matter in which the Enforcement Agency is required to bring its evidence in support of the charge set forth in the notice. This will allow the cited permit holder an opportunity to cross-examine prior to presenting his evidence. The usual administrative hearing will follow judicial procedures but will be on a less formal basis.*

8.04.2 Opinion. The Director of the Administrative Department shall decide the issue and shall, within _____ days of the conclusion of the hearing, render an opinion in writing, in which opinion he may suspend or revoke the permit or permits involved in the hearing.

COMMENT: *A realistic time limit should be set that the appeal can be considered prior to the decision. A long time interval should be avoided as it would encourage procrastination.*

8.05 Injunction. In all cases where the violation of this ordinance or the rules and regulations authorized herein, or the laws of this State create an immediate threat to the safety, health, welfare or environment of the residents of this locality, the Enforcement Agency shall cite the violator, stating therein the necessary corrective measures to be taken, and shall order same to begin forthwith. If such corrective measures are not taken forth, the Enforcement Agency shall notify the Chief Legal Officer of this locality who shall immediately apply to the _____ Court for an injunction prohibiting further violation as shown in the notice authorized in Section 8.03. The provision of this section shall be in addition to and not in substitution of any other section or sections.

COMMENT: *This is intended as an added safeguard where action or inaction may create an immediate threat to the safety, health, welfare, or environment of the population. An injunction may be obtained to compel action where corrections are not undertaken immediately. This section would not preclude citation to a court where penal and/or pecuniary penalties could be assessed.*

9. Solid Waste Management Advisory Board

9.01 Appointment. The majority of the Legislative Body of the locality shall appoint _____ residents of this municipality to a board, to be known as the Solid Waste Management Advisory Board, and shall fill all vacancies, however created. Any such appointee shall serve out the unexpired term of the person who is replaced.

COMMENT: *The use of an odd number is desirable to avoid a tie in voting. The ideal board would be made up of a combination of professional and lay people, drawing upon such professions as medicine, engineering, planning and law. Lay members could come from industry, solid waste management, etc. Both the Director of the Administrative Department and the Commissioner of the Enforcement Agency could be made members without voting rights. All appointments could be by the Chief Executive with the consent of the Legislative Body.*

9.02 Terms. The Solid Waste Management Advisory Board shall serve for a term of four years, provided, however, in the initial term, the first _____ named shall serve for two years, the next _____ named shall serve for three years and the last _____ named shall serve for four years.

COMMENT: *The term should correspond with the term of the appointing body or person where possible. In the latter case, the ordinance could authorize the executive to appoint members, with the consent of the Legislative Body. Staggered initial terms will avoid a too cooperative board. In a nine man board, the first two would serve two years, the next three named would serve for three years and the last four named would serve four years. All terms illustrated are initial.*

9.03 Organization – Meetings. The Advisory Board shall, within thirty days after its full appointment, hold a meeting at which it shall elect its officers and adopt by-laws governing the conduct of its business. The Board shall meet not less than one time in each quarter year. The Chief Executive or a majority of the Legislative Body or a quorum of the board may call an emergency meeting at any time.

COMMENT: *Once all members of the Advisory Board have been appointed there is a mandatory thirty-day period in which to hold the first meeting. By-laws are important in that they spell out such terms as a quorum,*

emergency meeting, etc. Added emergency meetings are provided for on the initiative of the Chief Executive, or a majority of the Legislative Body, or a quorum of the Advisory Board.

9.04 Duties. The Advisory Board:

a. shall advise the Director in the preparation of the solid waste management plan, including the selection of solid waste management sites within this locality.

b. may review permit application forms and recommend revisions thereof, which shall be consistent with the terms of this ordinance.

c. shall attend all hearings called under this ordinance for the adoption, revision or revocation of rules and regulations authorized herein. It may make such recommendations to the Director as are authorized by its by-laws.

d. shall attend all public hearings called by the Director for establishing or altering rates, charges or fees required by this ordinance. It may make such recommendations to the Director as are authorized by its by-laws.

e. may attend any hearings held by the Director regarding complaints arising from the administration of this ordinance. The Advisory Board may make recommendations to the Director which, in its opinion, would alleviate the cause of such complaints.

In all such hearings, the Advisory Board shall participate through the Director only and all recommendations shall be in writing.

COMMENT: *The Advisory Board is designed to do just what the title implies. It is as valuable as it is permitted to be and should represent a cross section of the locality which it serves. No provision has been made for compensation so that anyone using the sample would be free to set out their own schedule. Usually, a board of this type will get either a nominal salary for each day served or the members will be paid all actual expenses incurred and paid.*

10. Time and Frequency of Collection

10.01 Residential. All residential solid waste shall be collected _____ times each week. No less than _____ hours shall lapse between each such collection. All collections shall be made between _____ a.m. and _____ p.m.

COMMENT: *Population density, waste generation and season will determine the frequency of collection. Dense population and heavy waste generation require frequent collection. Summer months may produce added waste in grass clippings, fruit and vegetable wastes, etc. This section could require two collections per week. Minimum collection frequency of twice within 7 days is recognized as disrupting the common house fly life cycle. The time of collection is designed to prevent noise or other annoyances at times when the majority of the population will be resting.*

10.02 Non-Residential. All non-residential solid waste shall be collected at sufficient intervals to protect the environment as set forth in the rules and regulations authorized herein. All such collections shall be scheduled so that collection vehicles do not interfere with rush-hour traffic.

COMMENT: *The variety of non-residential waste prevents detailed regulation as to frequency of collection. Environmental hazards would be the main concern here. Organic wastes subject to decomposition and vector attraction should be removed daily. Other wastes, such as paper from office buildings, need not be collected that often. All business area collections should be set, and efficiency and economy would dictate setting them, at times other than the morning and evening rush hours.*

11. Storage

11.01 Residential. The owners of all residential units shall provide approved containers with sufficient volume to store all residential solid waste generated in each such unit between collections. All residential solid waste shall be securely stored in an approved container, except as herein below provided.

COMMENT: *This provision fixes responsibility for providing an adequate number of containers with sufficient volume for residential waste storage.*

"Approved containers" are left open for definition by rules and regulations. Such containers could be of the conventional size, rustproof, and durable material, with two handles to facilitate emptying, etc., and should include durable plastic or paper bags. Bags are particularly valuable during the summer months. "Securely" would require tight closure at all times other than when placing waste in or emptying waste from a container.

11.02 Non-Residential. All occupants of non-residential premises shall provide a sufficient number of approved containers for the storage of solid waste which they generate and shall place all such solid waste therein, other than those wastes which do not require containerized storage which shall be stored as authorized by the rules and regulations authorized in Section 8.

COMMENT: *In regulating containers for non-residential solid waste, care must be taken to avoid requiring storage of wastes which can be stored in the open. These two sections illustrate methods of fixing responsibility to provide approved containers for storage prior to collection and leave to the one responsible therefore, such as purchase or lease.*

12. Containers

12.01 Sanitation. The owners of all reusable approved containers shall maintain them and the adjacent area in a nuisance and odor free condition.

COMMENT: *The ordinance requires the use of approved containers for all wastes requiring such storage. Routine housekeeping should result in clean containers used for storage of solid waste. This section would be available as an enforcement tool for those few who will be careless in their housekeeping and also to institute effective insect and rodent control procedures.*

12.02 Defective Containers. All reusable containers incapable of meeting the definition of approved containers shall be considered waste and shall be placed in the collection vehicle by the collectors.

COMMENT: *Many localities have tried a tag method of control of container condition with little success. The usual way is to use a warning tag, which is attached to the container. If the container is reused, then a red tag is attached, informing the homeowner that it is illegal to use the container at any time after the tag data. The system here simplifies the entire process and is intended to safeguard the collection crew. This is a type of action which must be properly used in order to maintain resident cooperation.*

12.03 Residential Container Location Prior to Collection. All residential solid waste containers shall be placed at the curb (or alley) not more than _____ hours before collection. All reusable containers shall be removed from the curb (or alley) _____ hours after collection.

COMMENT: *This section serves two purposes. It requires set-out by the homeowner and also serves to regulate placement of full containers and the removal of empties within a reasonable time so that full containers will be less likely to be upset by animals or vandals and empty containers will be removed promptly by the residents, thereby eliminating an unsightly row of cans before each house.*

Set-out and removal by the resident is the most economical process. The availability of funds and distance to the collection point would determine the use of this system. If used, some consideration must be given the handicapped and elderly. Some cities will provide a set-out service for that category. Others may leave it to each individual to make his own arrangement. If bulk containers are in use there may be a need for some variation, particularly where the collection truck enters the property for pick up.

13. Non-Containerized Waste

Non-bulky wastes which do not provide food or harborage for insects and rodents may be placed at the curb for collection provided they are secured to prevent littering and do not exceed _____ lbs. in weight.

COMMENT: *This Section is sufficiently broad to include such items as newspapers, magazines, treelimbs, etc. Size would be within limits set by collection trucks. Weight limits should be set so that the collection crew will not be injured in lifting the bundles. Rules and regulations could be used for added detail, if needed.*

14. Bulky Waste

All bulky items shall be stored within the residence of the owner. The Director shall be notified by each resident of the type and location of items of bulky wastes to be collected and shall make same available for pick-up on the date schedules by the Director.

COMMENT: *The usualy bulky items will include "white goods", that is, refrigerators, washers, dryers, etc., and would include furniture, televisions and hot water tanks. "Available for pick-up" would be determined by the community and could include carry-out from within the residence. The requirement of storage within the residence would keep bulky items out of sight.*

15. Dead Animals

Any resident who has, or finds, a dead animal on his premises shall promptly notify the Director of its location and type and shall make such remains immediately available for collection as provided in Section 6.06.

COMMENT: *The purpose here is to prevent the use of the normal collection service for the dispostion of dead animals, primarily for sanitation purposes. Rules and regulations could be used to provide for storage prior to pick up. Enclosure in a plastic bag would be an example of such a requirement. Needless to say, pick up should be made as soon as possible after notice is received from the resident by the Director.*

The street department would remove dead animals from the streets.

16. Collection – Residential

All residential solid waste shall be collected by the locality or the collector under contract with the locality.

COMMENT: *This section is for use in local collection as no other section covers residential collection other than the permit requirements for a generator who will dispose of his own waste.*

If private contractors are used then the contract between the locality and the contractor would set out in detail the duties and rights of the parties. In such case, the permit sections and rate regulation would apply.

17. Fees

17.01 Establishment and Payment. The Director shall establish such fees for residential solid waste collection as are necessary to meet all costs of operating and maintaining the residential solid waste management system. All such fees, including subsequent revisions thereof, shall be paid by the resident or owner of record of the property served, and shall be paid to the order of the applicable agency on a quarterly basis, not more than thirty days after the expiration of each quarter.

COMMENT: *In establishing fees it is essential that accurate cost figures be used. Of these figures, labor and equipment will represent the greater percentage, with overhead such as office space, supervisory salaries, vacation and sick pay and retirement benefits being representative of the balance. The quarterly billing system is used as it follows most water supply and waste water billing procedures. These fees could be added to those already in force.*

The fees could be paid into the general fund or into a specific account limited to solid waste management.

If general tax funds are the source of revenue for solid waste management, this section should be eliminated.

17.02 Delinquency. All unpaid fees shall become deliquent upon the expiration of the time specified in Section 17.01 and shall bear interest at _____% per annum until paid.

COMMENT: *This is a step in the process of forced collection fees for solid waste management. The fees are deemed delinquent after the expiration of the thirty day period given in the preceding section and collection is required in the subsequent action.*

The provision for interest is intended to bring to the attention of the delinquent account the fact that late payment adds to the cost of his individual solid waste management and to encourage prompt payment. Current lawful interest rates could be used as a guide here and, in no case, should the legal rate be exceeded.

17.03 Collection. The Director shall notify the Chief Legal Officer of all delinquent accounts not more than ___ days after the end of each quarter and the Chief Legal Officer shall take the necessary action tocollect same. Each delinquent account shall be liable to the governing body for court costs and all cost items involved in its collection.

COMMENT: *This section would allow some time for out of court collection activities within the time limit set here. Section 17.01 creates a delinquency 30 days after the expiration of a quarter, thereby automatically limiting the time for suit. An additional thirty day period would not be too long to allow the Director to prepare his delinquency list. Present terminology places a mandatory duty upon theChief Legal Officer to collect.*

This provision is the only one in the sample relative to delinquency of payments. Health considerations make it mandatory that solid waste management be continued even though user fees are not paid. Added provisions could be considered, including forced sale of real or personal property.

Welfare payments may have to be adjusted to include these fees.

17.04 Uncollected. All uncollected fees, after judgement, shall be placed on record in the locality where the property served is located, as any other judgement lien, and shall be released as paid.

COMMENT: *Property owners, as a rule, are a stable and reliable group. They, in turn, can protect themselves by adding the cost of solid waste management to the rental charge to their tenants.*

There is usually a debt limitation imposed on local governmental units which prevents the use of tax fund unless the debt limit has not been reached. The use of a fee will prevent restrictions imposed by the debt ceiling.

There will be instances where a judgement may be obtained and collection may be delayed or it may be impossible. By recording the judgement the possibility of payment will be increased.

17.05 Increase. No fees authorized in this ordinance shall be increased until the Director has held one public hearing thereon. No hearing shall be held before one notice thereof has been published in a newspaper of general circulation within this locality. There shall be not less than _____ days nor more than _____ days lapse between such publication and hearing.

COMMENT: *As presently states, no hearing would berequired in the event that a decrease in fees would be possible.*

A notice is required to advise the users of the system and permit holders that a rate increase is proposed so that any interested person can appear and be heard. The time interval between publication and hearing should be of sufficient duration to allow full participation.

A wide publication of the proposed rate change is desirable. Added media coverage could be used to assure a fully informed public.

17.06 Hearings. The Director shall preside at all hearings concerning fee increases and shall open and close the hearing. Any system user or permit holder present and wishing to be heard shall be recognized by the Director, who shall give the user or permit holder the opportunity to make a consise statement presenting his views.

COMMENT: *This section is intended to provide some order to the hearing by authorizing the Director to open and close the session. He would also be authorized to recognize those who wish to be heard and to regulate the time allocated for a concise statement.*

18. Insurance

18.01 Performance Bonds. All persons who contract with this governing body to manage solid waste shall furnish performance bonds conditioned upon the faithful performance of their agreements. All such bonds shall be written by an insurance company licensed to transact business in this State and shall be for a sum of not less than one half of the annual sum paid to each such contractor. No such bond shall exceed 100% of the annual contract payment to each contractor. Each performance bond shall be for a period equal to the initial contract term, or any extension thereof.

COMMENT: *Performance bonds are usually required by State law to protect the governing body in the event a contractor defaults. Each performance bond will have a time limit set out in which a claim must be reported to the company. Failure to notify the company in that time will void the policy. All insurance policies should be reviewed periodically so that the rights of the locality can be protected.*

This section could be expanded to require a performance bond of all permit holders who discontinue their activities before the expiration date of the permit, thereby assuring continuance of the activities covered thereby.

18.02 Payment Bonds. Each contractor referred to above shall, not less than ten (10) days after the execution of each contract, deliver to the governing body proof of a payment bond executed by a surety company licensed to transact business in this State, guaranteeing payment of wages to all employees of the contractor and the cost of all supplies, materials and insurance premiums required in fulfilling each contract.

COMMENT: *This section is intended to safeguard all wages due employees of a contractor, as well as the payment of materials and supplies used in the performance of the contract.*

18.03 Liability Insurance. All contractors and permit holders under the provisions of this ordinance shall furnish proof to the governing body of liability insurance covering all aspects of their activities under this ordinance. No personal injury policy shall be for less than $_____ per person or $_____ per accident. No property damage policy shall be for less than $_____ per accident. All policies required by this ordinance shall have a minimum cancellation period of not less than _____ days after receipt in writing of the notice of cancellation by the governing body.

COMMENT: *Care should be exercised in setting policy limit requirements which will protect the general public. State financial responsibility limits for motor vehicles should not be considered as guides as they are regarded as too low. Workmen's Compensation by a private carrier would not be covered by this section as it is now written.*

19. Permit Renewal

Any permit holder desiring to renew an existing permit shall complete and submit to the Director of the Administrative Department an application therefor not more than _____ days nor less than _____ days before the expiration date thereof and shall tender with each application form such permit fees as are herein below required.

COMMENT: *Sufficient time should be allowed to process a renewal application to provide another source for the activity, if the renewal is denied. It will also give the Director time to inspect equipment and sites.*

20. Permit Fees

Each application for a permit, or renewal application, shall be accompanied by a certified check or money order in the following amounts:

a. 7.01 $_____(Self-Management)
b. 7.02 $_____(Storage)
c. 7.03 $_____(Collection)
d. 7.04 $_____(Transfer)
e. 7.05 $_____(Transport)

f. 7.06 $_____ (Incineration)
g. 7.07 $_____ (Sanitary Landfill)
h. 7.08 $_____ (Resource Recovery)
All fees required by this section shall be placed in the _____ fund of this governmental agency.

COMMENT: *Fees should be realistic and should bear a reasonable relation to the expenses incurred by the governmental agency for processing applications. It may be desirable to provide an added clause making all such fees non-returnable.*

21. Appeals

Any person who feels aggrieved by any action of the Director of the Administrative Department or the Commissioner of the Enforcement Agency may within _____ days of the act for which redress is sought, appeal to the Advisory Board, in writing, setting forth in a concise statement the act being appealed and the ground for its reversal.

The Advisory Board shall, within _____ days following the receipt of each written appeal schedule a hearing date and notify the appellant and the Director of the Administrative Department or Commissioner of the Enforcement Agency in writing of the date and time of the scheduled hearing. The appellant may appear on his own behalf, or through counsel, and may present his witnesses. The Director of the Administrative Department or Commissioner of the Enforcement Agency may present rebuttal testimony and witnesses.

The Advisory Board shall within _____ days after the hearing notify the Director of the Administrative Department or Commissioner of the Enforcement Group of its decision and recommendations and shall forward one copy to the appellant.

The Director of the Administrative Department or Commissioner of the Enforcement Agency shall within _____ days of the receipt of the decision of the Advisory Board, either approve or disapprove the decision and recommendation of the Advisory Board and shall forward a copy to the appellant.

COMMENT: *Appeals to an Advisory Board should be encouraged as this could help relieve congested courts of their case loads and provide for rapid resolution of the question. It should be emphasized, however, that any decision of the Board is binding upon the governmental agency. In the proceeding, the Administrative Department makes the final decision. Disadvantages of such appeals are the absence of power of a board to compel the attendnace of witnesses or the production of evidence.*

22. Appeals, Alternative

Any person who feels aggrieved by any act of the Administrative Department or Enforcement Agency may waive the provision of Section 21, and within the time limit specified therein, appeal directly to the Court of _____.

During all appeals authorized herein, the opinion of the Director shall remain in full force and effect.

COMMENT: *The Administrative Procedures Act of the State should be consulted and followed for the details of appeals procedures, including time restraints. Each State will have a court of broad initial jurisdiction which should be authorized to hear appeals from administrative action.*

23. Computation of Time

The time within which an act is required by law to be done shall be computed by excluding the first and including the last day; except that when the last day falls on Sunday or a legal holiday, then the Act may be done on the next succeeding day which is not Sunday or a legal holiday.

When a public office in which an act, required by law, is to be performed is closed to the public for the entire day which constitutes the last day for doing such act, or before its usual closing time on such day, then such act may be performed on the next succeeding day which is not a Sunday or a legal holiday.

COMMENT: *This section will set a standard for actual time intervals as all notices to correct deficiencies will have to carry a definite time limit. Other provisions, as in permit applications require a definite time period for action.*

24. Title to Waste

In the absence of an agreement to the contrary, title to the solid waste shall vest in the owner of each management activity or facility in which the solid waste is placed.

COMMENT: *This section is intended to pass title to waste from the generator to an identifiable person throughout its management. This will help fix responsibility for management and will avoid confusion as to ownership of recovered items. It will also avoid conflicting claims in the event a resident inadvertently includes an item of value in his waste, as such item would be neither unwanted, discarded or useless. Resource recovery will give added emphasis to the need for legal title to solid waste, particularly where large volumes are involved, therefore this section clearly fixes ownership at any management step.*

25. Prohibited Activities

25.01 Dead Animals. It shall be unlawful to place any dead animal, or parts thereof, in a container for collection without the consent of the Director, provided, however, this section shall not apply to animal parts from food preparation for human consumption.

COMMENT: *This section is to encourage the use of the dead animal collection required in Sections 6.06 and 15. The exclusion includes all food preparation, including residential and commercial activity, such as restaurants.*

25.02 Littering. It shall be unlawful to place, or allow to be placed, any solid waste upon the roads, streets, public or private property within this municipality contrary to the provisions of this ordinance.

COMMENT: *Proper solid waste management requires regulated disposal. This section and Section 25.08, prohibiting dumps, are intended to eliminate litter and promiscuous dumping. The penalties provided in Section 26 can be used to discourage either practice. "Allow" is included for the protection of a property owner whose consent is not given to a person dumping or littering.*

25.03 Acts Contrary to Ordinance. It shall be unlawful to store, collect, transport, transfer, recover, incinerate, or dispose of any solid waste within the boundaries of this locality contrary to the provisions of this ordinance.

COMMENT: *This Section declares all aspects of solid waste management illegal unless done in conformity with the provisions of the ordinance. Any person who stores, collects, transports, transfers, recovers, incinerates, or disposes of solid waste must have the required permits and must conform to State and local laws and the rules and regulations authorized in this ordinance. Although residential solid waste has minimal regulation here, legislative bodies may want to go into greater detail.*

In the event that a process or activity for solid waste management is introduced in the locality, the user will have to set up a permit application and include it in this and other applicable sections.

25.04 Vehicle Construction. It shall be unlawful to transport any solid waste in any vehicle which permits the contents to blow, sift, leak or fall therefrom.

COMMENT: *This is the only provision which sets standards for vehicle construction and is a requirement usually found in State laws.*

25.05 No Interference with Authorized Solid Waste Management. It shall be unlawful for any person to interfere with any employee of this locality or any employee of a contractor while in the performance of their duties as authorized by this ordinance.

COMMENT: *Inspections before and after issuance of permit are necessary to insure compliance with the ordinance. This Section is the basis for penalizing interference with any person acting under the authority of the ordinance.*

25.06 Scavenging Prohibited. It shall be unlawful for any person to scavenge any solid waste within the boundaries of this locality.

COMMENT: *Solid waste management cannot be effective if casual pickers are permitted in any step in the process, whether pre-collection activity from containers at the curb or at an incinerator or sanitary landfill. Controlled recovery should be encouraged at any logical step of proper solid waste management.*

25.07 False Information. It shall be unlawful for any person to make any false statement in any application required by this ordinance.

COMMENT: *This section provides a penalty for false information given on any application required by the ordinance. Conviction would require a showing that the false information was provided deliberately but would not include innocent or erroneous information. The Administrative Department would also have the inherent right to revoke any permit or permits involved in the applications, as a false statement vitiates such matters.*

25.08 Dumps Prohibited. It shall be unlawful for any person to use or operate a dump.

COMMENT: *The intent of the ordinance is set forth in Section 2 and will be defeated unless all dumps are converted to sanitary landfills or are eliminated.*

25.09 Burning Prohibited. It shall be unlawful for any person to burn solid waste in any manner other than in a duly authorized incinerator.

COMMENT: *Air pollution control can not be effective unless open burning is eliminated. The ordinance requires a permit for all incinerators, thereby insuring the installation and use of pollution control measures, including the disposal of incinerator residue and proper treatment of quench waters. The ban here would include leaf burning, therefore the added waste volume will have to be considered in the plan requirements of Section 6.01. This section does not prohibit the use of a fireplace or outdoor grill of residences, unless barred by a separate law.*

25.10 Animal Feeding. It shall be unlawful for any person to engage in the feeding of food waste to animals for commercial purposes.

COMMENT: *State law usually regulates food waste (garbage) feeding to animals, usually swine, under controlled conditions. If such feeding is permitted, those regulations shall be followed.*

25.11 Illegal Use of Permit Number. It shall be unlawful to display any permit number unless the person displaying such number or numbers holds a valid permit or permits therefor.

COMMENT: *A duly issued permit may be suspended or revoked by the Director of the Administrative Department. This Section would make it illegal either to use a fictitious permit number or to continue the display of permit number after suspension or revocation. Permit numbers are needed to identify and regulate solid waste management.*

25.12 Hazardous Waste. No person shall place any hazardous waste in any container for collection, transport, processing or disposal until the Enforcement Agency has approved the method of storage, transport, processing, or disposal.

COMMENT: *This section is intended to identify and regulate hazardous waste to protect the health of the community and to protect people engaged in solid waste management. Experience will allow some standardization in proper management of hazardous wastes.*

26. Penalties

Any person convicted of a violation of this ordinance, or the rules and regulations authorized herein, shall be subject to a fine of not more than $_____ or imprisonment in the county jail for not more than _____ months, or both.

COMMENT: *The Court enforcing an ordinance will have limits in pecuniary and penal punishment, therefore that limitation must be considered in setting forth sums and sentences. Penal institutions may be a county jail, a municipal jail or a workhouse. The maximum range should be high enough to discourage violation and a penalty section should allow some discretion to the judge.*

27. Repealer

The following ordinances of this locality are hereby repealed: _____.

COMMENT: *All ordinances which are to be replaced by this ordinance should be specifically listed, based upon careful evaluation of each to be repealed. The use of an omnibus repealer should be avoided as it may prove too broad.*

28. Savings Clause

Nothing in this ordinance shall be deemed to affect, modify, amend or repeal any provisions of an ordinance administered by the Administrative Department or Enforcement Agency or any other department, board, commission or agency of this locality.

COMMENT: *If no existing ordinances are to be repealed and if the Solid Waste Management Ordinance is not to affect any existing ordinances or authority created by existing ordinances, the above provision would be useful in showing such intent.*

29. Severability Clause

The provisions of this ordinance are severable, and if any provision or part thereof shall be held invalid or unconstitutional or inapplicable to any person or circumstance, such invalidity, unconstitutionalty or inapplicability shall not affect or impair the remaining provisions of this ordinance.

COMMENT: *If a court strikes out a part of the ordinance prompt legislative action should be taken to enact provisions to fill the void.*

30. Effective Date

This Act is hereby declared an emergency provision to protect the health and welfare of the inhabitants of this locality and shall take effect immediately upon its passage, provided, however, those sections requiring permits shall not apply to existing facilities for a period of _____ months after said effective date.

COMMENT: *In establishing an effective date for the ordinance sufficient time must be given so that existing facilities can be brought within the terms set forth. Dumps could be closed in a short time but would require a longer period for conversion to a sanitary landfill.*